



NEW ORLEANS POLICE DEPARTMENT OPERATIONS MANUAL

CHAPTER: 74.3

TITLE: COURT APPEARANCE AND SUBPOENAS

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PURPOSE

This Chapter provides for the acceptance of subpoenas and court notices for duty related matters, to ensure that members appear in court when requested and to ensure members present a professional appearance.

DEFINITIONS

Administrative Subpoena—A written document served upon a member by the City of New Orleans, the New Orleans Police Department or another Board or Agency of the City, instructing him/her to appear before any administrative body or panel with subpoena authority.

Court Overtime—The attendance by a member of the New Orleans Police Department in any court or governmental body having subpoena power, where attendance is mandatory, where the attendance arises out of the member's scope or performance of his/her duty, and the member is not scheduled to work during attendance.

Legal Subpoena—A writ summoning an individual to appear before a legal court or governmental body for the purpose of giving testimony.

Electronic Legal Subpoena—A writ summoning an individual to appear before a legal court or governmental body for the purpose of giving testimony and/or to produce items sent via electronic mail.

Court Notify—The name of the electronic subpoena notification system utilized by the criminal justice system in New Orleans.

Proper Notification—Service of a subpoena, or notification that a member is required to appear in court from:

- (a) Verbal Notice by an officer of the Court,
- (b) Verbal notice by any NOPD supervisor,
- (c) Personal Service,
- (d) Domiciliary Service,
- (e) United States Mail, or
- (f) Electronic Mail.

Officer of the Court—Any person who has an obligation to promote justice and effective

operation of the judicial system, including judges, the attorneys (defense and prosecution) who appear in court, bailiffs, court clerks and other court personnel.

Trailing Status—When a member remains on standby status for additional court sessions until notified otherwise.

Mandatory Appearance—Subpoenas and court notices require a member's physical appearance in the specified court, at the specified time unless advised by notice of the issuing court. Failure to appear, either intentionally or by negligence, may result in disciplinary action.

Tribunal—A person or institution with the authority to judge, adjudicate or determine claims/disputes.

SUBPOENAS

1. Members who receive subpoenas or court notices related to his/her duties with this department are subject to the provisions of this Chapter.
2. Compliance is mandatory on all cases for which members have been properly subpoenaed or properly notified.
3. This Chapter applies to civil and criminal subpoenas and notices for matters relating to the member's official duties.
4. Members are expected to prepare adequately for appearances and must testify honestly.
5. Attendance at Traffic, Civil, Municipal, State, or Federal court or any administrative tribunal is mandatory under the following conditions:
 - (a) A subpoena or order of Instanta (electronic or paper)
 - (b) Notification via department e-mail
 - (c) Ordered to attend by a ranking officer
 - (d) Written or verbal notice from the City Attorney or District Attorney.
6. Only the issuing judicial officer can excuse a member from a subpoena to appear in a court or tribunal.
7. If a member is subpoenaed to appear in a tribunal outside of Orleans Parish, the member shall notify his commanding officer in advance and if necessary complete the appropriate travel form(s). The travel forms are located in NOPD.org under "Travel Forms."
8. A member who has overlapping appearances shall notify the Judge or Hearing Officer in each section, and request that he/she be allowed to coordinate the date and time of his/her appearance in each section.

SERVICE OF SUBPOENA OR DELIVERY OF COURT NOTICES

9. Service of a subpoena or court notice requiring the appearance of any member in connection with a matter arising out of the member's course and scope of official duties may be accomplished by a verbal notice by the Judge or Officer of the Court and through any delivery by the Compliance Bureau, including personal service on the member.

SUBPOENA PROCESSING RECEIVED BY COURT NOTIFY

10. The Courts are issuing subpoenas via the "Court Notify" and city e-mail notification systems.
11. The Commander of the Education and Training Division shall prepare a lesson plan for training personnel about the Electronic Subpoena Systems.
12. This training will be included in the recruit and in-service training programs.
13. Every department member is responsible for checking his/her departmental e-mail account via Microsoft Outlook or internet address mail.nola.gov at least once during his/her tour of duty.
14. E-mail accounts can be accessed from any computer with an internet connection including a Mobile Data Terminal.
15. Every department member is responsible for checking his/her "Court Notify" account via the NOPD applications icon or internet address www.nopd.net at least once during his/her tour of duty.
16. The web address can be accessed by any computer with an intranet connection including a Mobile Data Terminal.
17. A member shall check for his/her subpoenas from the "Court Notify" system once logged in.
18. An e-mail is also sent to the member via department email.
19. When an e-mail is received from "Court Notify," a member shall acknowledge receipt of the subpoena through the "Court Notify" system.
20. A Commander or his/her designee in each unit/section/division/bureau, shall make sure his/her subordinates formally acknowledge a subpoena issued via "Court Notify."
21. If a department member fails to acknowledge a subpoena, notifications will Escalate and Continue to escalate until the subpoena is acknowledged, as follows:
 - (a) 10 days prior to Court date, the immediate supervisor is notified,
 - (b) 9 days prior to Court date, the Platoon Lieutenant is notified,
 - (c) 7 days prior to Court date, the District/Division Commander is notified,
 - (d) 5 days prior to Court date, the Commander of the Professional Standards and Accountability Bureau or his/her designee is notified.
22. After receiving an escalated subpoena, supervisory personnel shall notify the subpoenaed member in writing of the escalated subpoena and ensure the member acknowledges said subpoena via "Court Notify."
23. A supervisor may acknowledge the subpoena for a member when he/she knows the member will be available to attend court.
24. The supervisor who acknowledged a subpoena for a member, shall notify the member in writing within 72 hours of the acknowledgment.
25. The supervisor shall also print the subpoena from the "Court Notify" system and give it to the member.

SUBPOENA PROCESSING NOT RECEIVED BY COURT NOTIFY

26. The Compliance Bureau shall:
 - (a) Receive all delivered subpoenas not entered into Court Notify for the New Orleans Police Department from Criminal District Court and Juvenile Court process servers.
 - (b) Receive, document, and distribute all subpoenas from a centralized location, as designated by the Commander of the Professional Standards and Accountability Bureau.
 - (c) Distribute within twenty-four (24) hours or the next business day all subpoenas received to the District/Unit/Section.
27. All refused subpoenas shall be returned to the Compliance Bureau no later than 10:00 a.m. on the third day after receiving the subpoena(s).
28. Refused subpoenas shall require a refusal (Form 278) to the subpoena from the member's supervisor to indicate a justifiable reason for the person subpoenaed not appearing for the court date.
29. **Department members shall not contact court personnel and/or the District Attorney's Office relating to a refused subpoena.**
30. The Compliance Bureau shall be responsible for notifying court personnel and the District Attorney's Office relating to refusal of subpoenas.
31. The Compliance Bureau shall be responsible for returning all refused subpoenas to the Clerk of Court's Office.

VALID SUBPOENAS

32. No subpoena or court notice shall be accepted for a member of this department unless it has been properly served and purports to have originated from a recognized legal authority.

ACCEPTANCE OF SUBPOENAS

33. Service may consist of individual subpoenas or may consist of lists which include:
 - (a) A member's name,
 - (b) Badge or employee ID number,
 - (c) Case title,
 - (d) Name of court, and
 - (e) Date and time of appearance.
34. Lists may be served by electronic transfer (R.S. 32.6(C); C. Cr. P. 735).
35. Only the member named in a subpoena, a supervisor or the Compliance Bureau shall be authorized to accept service of a subpoena.
36. Any authorized member accepting a subpoena shall immediately provide a copy of the subpoena to the Compliance Bureau.
37. The Compliance Bureau shall maintain a chronological log of all department subpoenas and provide a copy of the subpoena to each involved member.
38. Once a subpoena has been received by a supervisor or other authorized individual, a

copy of the subpoena shall be promptly provided to the individually named member.

39. The member named in a subpoena, his/her immediate supervisor or other authorized individual shall sign for subpoenas or indicate receipt by electronic verification code (RS 32.6(C); C. Cr. P. 735).
40. In cases in which a government entity is not a party, if a subpoena is presented for service to an immediate supervisor or other authorized individual less than five working days prior to the date listed for an appearance, the supervisor or other authorized individual should tell the process server to serve the subpoena directly to the named member.
41. If the named witness is not on-duty, the supervisor shall inform the process server of the next available date the witness will be on-duty.
42. All hand-delivered subpoenas/instantas received in the Bureau/District/Section/Unit shall be logged into the Subpoena Log maintained in the Bureau/District/Section/Unit.
43. Commanding Officers of each Bureau/Division/Section/Unit, regardless of title classification, shall establish a log book, on a platoon by platoon basis where applicable, for the purpose of recording the receipt and issuance of subpoenas received for personnel under their supervision.
44. The subpoena log book shall reflect the following information:
 - (a) Authorized members who initially received the subpoena from the servers,
 - (b) The date of receipt,
 - (c) Court section,
 - (d) Court case number,
 - (e) Trial date, Acknowledgment and receipt of subpoena by member named in subpoena, and date received,
 - (f) Acknowledgment by a supervisor that the subpoena was served on the member.
45. Members are responsible for signing the Subpoena Log immediately upon receiving their subpoenas/instantas.
46. Upon receipt of subpoenas, the member accepting same shall check the names of the individuals listed on the subpoenas to ensure subpoenas are not accepted for individuals not assigned to the location where service is attempted.
47. If a subpoena is received for an individual not assigned to the unit being served, the individual accepting service will inform the server that the subpoenaed person is not assigned to the unit and supply the information where service can be made, if known.
48. If service is made during normal business hours, and the assignment is not known by the individual accepting service, the receiving individual shall contact the Human Resource Section in an attempt to ascertain the correct assignment. This information shall be supplied to the server of the subpoena.
49. Unit commanders or members designated to receive subpoenas shall screen subpoenas for members of their Unit who are on furlough, sick leave, or AWP.
50. In those cases where the member is not expected back to work prior to the date of trial, it shall be the unit commander's responsibility to attempt to notify the member of the trial date by telephone.

51. When it becomes apparent that the designated member will be unable to contact the subpoenaed member prior to the court date, the subpoena shall be returned to the court, or the Compliance Bureau.
52. Subpoenas returned due to extenuating circumstances shall contain a brief note explaining the reason for the return and if returned to the Compliance Bureau have refusal form attached.
53. Subpoenas shall be distributed at unit roll call by a supervisor, at which time members named in the subpoenas shall sign the subpoena register book acknowledging receipt.
54. Subpoenas for Civil District, Juvenile, City, and Federal Courts, Grand Jury, City Council, Civil Service Commission, and Courts outside of Orleans Parish shall be accepted and documented in the same log mentioned above.

JUVENILE COURT DETENTION HEARING

55. While processing a felony juvenile arrest, a member acknowledges his/her mandatory Detention Hearing appearance when signing the Detention Hearing Book located in the Juvenile Section office.
56. The member shall document the date and time of the detention hearing on the face sheet of the incident report (EPR).
57. The member's signature shall serve as the official notification in lieu of an issued subpoena.

ADMINISTRATIVE SUBPOENAS

58. A member appearing in compliance with an administrative subpoena while off duty, AWP or any other form of paid leave, is compensated in the same manner as a court appearance.
59. The below listed members and/or boards or committees are authorized to issue Administrative Subpoenas:
 - (a) Superintendent of Police, or his/her designee
 - (b) Assistant Superintendent(s) of Police,
 - (c) Office of Inspector General,
 - (d) Chairman of any Departmental Disciplinary/Administrative Board upon the approval of the Superintendent,
 - (e) Civil Service, and
 - (f) New Orleans City Council.

EXCEPTIONS AND REFUSAL OF SUBPOENAS

60. If a supervisor is unable to contact a subpoenaed member prior to the court date, the supervisor shall acknowledge the subpoena for the member, with the option "Acknowledge with Exception" in the "Court Notify" system.
61. The supervisor shall include a brief notation of the reason why a member cannot be notified or attend.
62. The supervisor shall notify the Compliance Bureau, via form 105, of the reason why the subpoena was refused and attach the Subpoena Refusal Form (Form 259).

63. If a member learns that he/she cannot appear on the court date after the subpoena was acknowledged, but prior to the day of court (i.e. sick/illness, injury, death in family), the subpoenaed member shall immediately notify the Compliance Bureau. The Compliance Bureau is responsible for notifying the judge and the District Attorney's Office about the member's inability to appear in court.
64. A member who cannot appear on the court date because an emergency incident occurred on the date of the appearance, the subpoenaed member shall contact the appropriate judge in that section of court and request to be excused from appearance. The subpoenaed member shall immediately notify the Compliance Bureau and provide the name of the person contacted, the court section(s) and the date/time the notification was made.
65. Training, vacations and regularly scheduled days off are not valid reasons for refusing a subpoena or missing court.

OFF-DUTY RELATED SUBPOENAS

66. Members receiving valid subpoenas for off-duty actions not related to their employment with the New Orleans Police Department shall comply with the requirements of the subpoena.
67. Members receiving these subpoenas are not compensated for their appearance by the department.
68. Arrangements for time off shall be coordinated through the member's immediate supervisor.
69. Members shall not wear his/her uniform when complying with this type of subpoena.

FAILURE TO APPEAR

70. Any member who fails to comply with the terms of any valid and properly served subpoena may be subject to discipline as well as court-imposed civil and/or criminal sanctions for contempt of court.
71. If for a valid reason (i.e., illness, injury, etc.), the named member is unable to appear in court as directed by a previously served subpoena, the member shall, as soon as reasonably possible, notify the Court of the member's unavailability to appear.
72. Upon notification to the Court, the member is responsible for notifying the Compliance Bureau of the expected absence, providing the name of the person contacted, the court section(s) and the date/time the notification was made.
73. If a member is held in contempt for failing to obey a subpoena, and as a result is confined, and is unable to physically report for duty while he/she is confined, the member's commander shall carry the member LWOP (Leave Without Pay) and initiate an investigation.

CIVIL SUBPOENAS NOT INVOLVING A GOVERNMENT PARTY

74. Any reimbursement received directly by the member while appearing on duty shall be promptly turned over to the Deputy Superintendent of the Management Services Bureau, through the member's chain of command.

75. Under no circumstances is a member to request, or be compensated for a court appearance that is not directly employment related.

PROCEDURE

76. To ensure that the member is able to appear when required, that the member is compensated for such appearance, and to protect the Department's right to reimbursement, members shall follow the established procedures for the receipt of a civil subpoena.

COURTROOM PROTOCOL

77. Members must be punctual when appearing in court and shall be prepared to proceed immediately with the case for which they are scheduled to appear.

PREPERATION FOR TESTIMONY

78. Before the date of testifying, the subpoenaed member shall request a copy of relevant reports and become familiar with their content in order to be prepared for court.

COURTROOM ATTIRE

79. A member attending a tribunal as a result of his/her employment with the NOPD shall be attired in either Class A or B uniform, or business formal attire.
80. An exception will be made, only in the case of exigent circumstances, and with the permission of the hearing officer or the presiding Judge.

COURTROOM DECORUM

81. Members shall observe all rules of the court in which they are appearing, refrain from smoking or chewing gum in the courtroom and shall remain alert to changes in the assigned courtroom where their matter is to be heard.

TESTIFYING AGAINST THE INTEREST OF THE STATE

82. Any member or member who is subpoenaed to testify, who has agreed to testify or who anticipates testifying or providing information on behalf of or at the request of any party against the State of Louisiana, any parish, city, other unit of government or any of its officers and members in which any of those entities are parties, will notify the Superintendent of Police through his/her chain of comment without delay.
83. The member's supervisor will then notify the appropriate prosecuting attorney.
84. The Superintendent of Police should determine if additional legal support is necessary.
85. This includes, but is not limited to, the following situations:
- (a) Providing testimony or information for the defense in any criminal trial or proceeding,
 - (b) Providing testimony or information for the plaintiff in a civil proceeding against any parish, city, other unit of government or any government official or its officers and members.
 - (c) Providing testimony or information against the State, parish, city, or other unit of government, or any of its officers and members, on behalf of or at the

request of any party other than any parish, city, other unit of government or any government official or its officers and members.

COMPENSATION FOR COURT APPEARANCE

86. A member is paid overtime for attending court on employment related cases in accordance with current payroll procedure. A member attending court during regular working hours shall not be paid overtime while on duty.
87. A member attending court while on furlough, sick leave, or any other form of paid leave, shall be carried working during the time he/she is physically in a tribunal.
88. Application for court overtime pay shall be documented on the Court Overtime Form (Form #34).
89. If a member attends more than one section of court, and the times of appearance overlap, only one form 34 shall be completed. However, if there is a gap between the time of completion in one section of court, and the arrival time in another section of court, a separate Form 34 shall be completed.
90. Individuals attending Traffic Court, Municipal Court, Criminal District Court, or the Grand Jury, shall utilize the ADP time clock located in NOPD Headquarters. The time clock shall be used to record both the time of arrival and departure from the above listed courts.
91. Individuals attending Juvenile Court, Civil District Court, Federal Court, Courts outside the jurisdiction of Orleans Parish, or City Council or Civil Service, shall have their subpoenas signed by a representative of the court indicating the time of arrival and departure from the court.
92. Members responding to the verbal orders of a judge or court officer shall obtain a subpoena from the appropriate authority, having him/her document both the time of arrival and departure from the court.
93. Subpoenas with documented time of arrival and departure from the court for appearances not entered by the member in the ADP time clock shall be turned in at the member's place of assigned upon his/her next scheduled tour of duty.
94. Members who enter their time in the ADP time clock are encouraged to turn in their subpoenas with the documented time of arrival and departure from the court on the date of court.
95. Should the member be AWP, furlough, sick leave, etc., and the member is not scheduled to return to work prior to the end of the pay week, Saturday, the subpoena with the documented time of arrival and departure from the court must be turned in prior to the end of the pay period.
96. Individuals who are required to utilize the ADP time clock documenting arrival and departure times shall be compensated from the time they "punch in" until the time they "punch out."
97. Under no circumstances shall individuals "punch in" more than ten (10) minutes prior to the indicated arrival time on the subpoena.
98. Members entering court time in the ADP payroll system shall enter the times punched

on the court subpoena for the documented time of arrival and departure from the court. Members entering the times shall not enter a "time in" number which is more than ten minutes before the scheduled arrival time indicated on the subpoena. If the span of time between the time of arrival and departure is less than one hour, the member will be compensated with one hour of court overtime.

99. Supervisors verifying court time in the ADP payroll system shall review the time entered in the ADP payroll system for both the arrival time and departure time. Supervisors shall ensure the "time in" number is not more than ten minutes before the scheduled arrival time indicated on the subpoena.
100. Supervisors will select "03, Court Time" utilizing the Work Rule Transfer menu within the ADP payroll system for the court time entered. Supervisors will add a "Comment" to the court time noting the court type, court section and case number (Example: *CDC Section-A, Case #123456*).
101. Members not required to use the ADP time clock shall be compensated from the reporting time indicated on the subpoena, until the departure time noted by the proper representative.
102. Compensation shall be determined as per the provisions of the Fair Labor Standards Act and current departmental policy.
103. Members are expressly prohibited from obtaining documentation for other members, from having time of departure certified on another member's subpoena, and/or from using the ADP time clock for other members.
104. Members are expressly prohibited from documenting subpoena times in and out on multiple documents.